

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 06-40890

LESLIE ROBERT UPFALL,

Chapter 7

Debtor.

Judge Thomas J. Tucker

_____/

EVANGEL BUILDERS & CONSTRUCTION
MANAGERS, L.L.C. and VINCENT COLBERT,

Plaintiffs,

v.

Adv. Pro. No. 06-5026

LESLIE ROBERT UPFALL,

Defendant.

_____/

ORDER VACATING WRIT OF GARNISHMENT

On April 29, 2009, the Court entered an order entitled "Order Granting Plaintiffs' Motion for Summary Judgment" (Docket # 57), which provided, in relevant part,

IT IS ORDERED that Plaintiffs' "Motion for Summary Judgment" (Docket # 13) based on Count II of the complaint, is GRANTED.

IT IS FURTHER ORDERED that judgment is entered for Plaintiffs and against Defendant on Count II of Plaintiffs' complaint.

IT IS FURTHER ORDERED that the \$75,000 judgment debt owed to Plaintiffs by Defendant is non-dischargeable under 11 U.S.C. § 523(a)(6).

IT IS FURTHER ORDERED that Count I of Plaintiffs' complaint is dismissed as moot.

Then, also on April 29, 2009, this adversary proceeding was closed.

On May 24, 2010, at Plaintiffs' request, the Clerk of this Court issued a Writ of

Garnishment (Docket # 58). This writ was issued in error. This Court did not enter any money judgment for the Plaintiffs, upon which a writ of garnishment could issue in this Court. Rather, the judgment in this case merely determined that the Defendant's debt to plaintiffs, *under a prior state court judgment*, was non-dischargeable.

For this reason,

IT IS ORDERED that the Writ of Garnishment issued on May 24, 2010 (Docket # 58), is VACATED.

This Order is without prejudice to any efforts Plaintiffs may make in state court to enforce their state court judgment against Defendant, including any garnishment proceedings Plaintiffs may wish to pursue in state court.

Signed on May 25, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge